

**ENTERED**

September 16, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

UNITED STATES OF AMERICA, §  
§  
VS. § CIVIL ACTION NO. 7:20-CV-177  
§  
7.646 ACRES OF LAND, MORE OF §  
LESS, *et al*, §  
§  
Defendants. §

**ORDER GRANTING PLAINTIFF'S MOTION FOR ORDER OF IMMEDIATE  
POSSESSION**

On June 30, 2020, Plaintiff filed a Complaint and Declaration of Taking (Dkt. Nos. 1–2) with this Court in the above-referenced action. On August 5, 2020, Plaintiff filed its Opposed Motion for Order of Immediate Possession (Dkt. No. 8). Defendant has filed a response in opposition to this Motion (Dkt. No. 10).

Through its Motion for Order of Immediate Possession (Dkt. No. 8), Plaintiff seeks surrender from Defendants of the estate defined as:

[A] fee simple [estate], subject to existing easements for public roads and highways, public utilities, railroads, and pipelines; and subject to all interests in minerals and appurtenant rights for exploration, development, production and removal of said minerals; . . .

Excepting and excluding all interests in water rights and water distribution and drainage systems, if any, provided that any surface rights arising from such water rights or systems are subordinated to the United States' construction, operation and maintenance of the border barrier.

Dkt. No. 2, Ex. 1 at Schedule E. The estate being claimed contains a specific tract of land described with more certainty in Schedules C and D of the Declaration of Taking (Dkt. No. 2, Ex. 1).

In accordance with 40 U.S.C. § 3114, on June 30, 2020, Plaintiff filed a

Complaint, for the condemnation (taking) of Defendants' property in fee simple, and Declaration of Taking of said property (Dkt. Nos. 1–2). On July 10, 2020, Plaintiff deposited in the Registry of this Court the sum of \$69,307.00 as the estimated just compensation for the taking described above (Dkt. No. 5). Plaintiff asserts these actions have given it title to the subject property. Dkt. No.8.

The Court finds Plaintiff complied with the Declaration of Taking Act, 40 U.S.C. § 3114. Accordingly, the Court **GRANTS** Plaintiff's Motion for Order of Immediate Possession (Dkt. No. 8). Thus, the Court **ORDERS** that all Defendants to the above-referenced action and all persons who own or claim ownership, possession, and/or control of the property described in the Complaint filed herein (Dkt. No. 1) shall surrender possession of said property, to the extent of the estate being condemned, to Plaintiff immediately. The Court reserves all Defendants' rights to litigate any questions concerning title and/or the amount of just compensation to be paid at a later date.

It is further **ORDERED** that a notice of this order shall be served on all persons in possession or control of the said property forthwith.

SO ORDERED this 16th day of September, 2020, at McAllen, Texas.



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Randy Crane  
United States District Judge